

# **Form I-130**

## **Petition for Alien Relative**



**Presented by  
USCIS Service Center Operations**

**April 2015**

# Objectives

**At the end of this presentation you will understand:**

- **What a Form I-130 (Petition for Alien Relative) is**
- **Who files a Form I-130**
- **How USCIS processes and adjudicates a Form I-130**
- **The relationship between the USCIS approval of a Form I-130 and the DOS issuance of an immigrant visa**



# What is a Form I-130?

## Petition for Alien Relative

The Form I-130 is essential to establish the existence of a qualifying familial relationship between:

- a U.S. citizen (USC) or
- a lawful permanent resident (LPR)  
and another person who is an alien.

It is the first step in a two-step immigrant process USCIS shares with the Department of State and is the most common way a USC or LPR can request USCIS's approval for their alien relative to immigrate to the United States.



# **Who can file a Form I-130?**

**The petitioner must be a  
USC or an LPR.**



# Who can be the Beneficiary of a Form I-130?

## A Form I-130 may be filed for:

- Spouse of USC or LPR
- Unmarried children (under 21 years old) of USC or LPR
- Siblings of USC
- Married son or daughter of USC
- Unmarried son or daughter (21 years old or older) of USC or LPR
- Parents of USC



# I-130 Filing Restrictions

## USCs and LPRs have some filing restrictions:

- USCs must be 21 years of age or older to file for a parent or sibling.
- LPRs may not file for parents, siblings, or married sons or daughters.

No one can file a Form I-130 on behalf of an aunt, uncle, cousin, niece, nephew, in-law, grandparent, or grandchild.



# **Family-based Immigrant Visas**

**Family reunification and legislative restriction on U.S. immigration have resulted in the creation of a two-tiered family-based immigrant visa system.**

**Family Reunification = Immediate Relative Category (IRs)**

**Legislative Numerical Limits = Family Preference Visa Categories**



# Family-based Immigrant Visas

## The Visa Classes

### Immediate Relatives:

- Spouse of USC's
- Children of USC's (unmarried and under age 21)
- Parents of USC's

They are not subject to numerical visa limitations.





# Family-based Immigrant Visas

## Family Preference Relatives:

|                                  |  |
|----------------------------------|--|
| First preference (F1)            | Unmarried sons and daughters of<br>USCs (INA §203(a)(1))                           |
| Second preference (F2A)<br>(F2B) | Spouses, children, and<br>Unmarried sons and daughters of<br>LPRs (INA §203(a)(2)) |
| Third preference (F3)            | Married sons and daughters of USCs<br>(INA §203(a)(3))                             |
| Fourth preference (F4)           | Brothers and sisters of USCs<br>(INA §203(a)(4))                                   |

**They are subject to numerical visa limitations**



# **USCIS Process for Adjudicating Form I-130**

## **Filing a Form I-130**

**The Form I-130 filing instructions provide the petitioner with specific information and filing addresses.**

**The Form I-130 is sent to a Lockbox facility for intake. The Lockbox does not adjudicate Form I-130 ; it determines whether the Form I-130 meets the acceptance criteria.**

- if YES (criteria met) – Lockbox routes the Form I-130 to the appropriate Field Office or Service Center to be adjudicated.**
- if NO (criteria not met) – Lockbox will reject the Form I-130.**



# USCIS Process for Adjudicating Form I-130

**A properly filed Form I-130 is one that is received with:**

- the petitioner's signature and
- the appropriate filing fee.

**The Lockbox facility will reject petitions that are not properly filed.**



# **USCIS Process for Adjudicating Form I-130**

**If the beneficiary is already in the United States, a petitioner may file a Form I-130 with a Form I-485, Application to Register Permanent Residence or Adjust Status, if a visa number is immediately available. This is known as a concurrent filing.**

**Concurrently filed Form I-130s/I-485s are sent to a specific Lockbox facility and are adjudicated by USCIS Field Offices.**



# **USCIS Process for Adjudicating Form I-130**

**What is a priority date and why is it important?**

**The priority date is:**

- **the date the visa petition was properly filed with USCIS.**
- **the key date for family preference petitions that are subject to annual numerical limits. This date determines visa availability.**



# **USCIS Process for Adjudicating Form I-130**

**Form I-130 that are not rejected by the Lockboxes are “accepted.” Accepted petitions are receipted and routed to the appropriate USCIS Service Center or Field Office for processing.**

**At the Service Center, cases are assigned to Immigration Service Officers (ISOs) for initial review and adjudication.**

**Form I-130 may be tracked online at [www.uscis.gov](http://www.uscis.gov).**



# USCIS Process for Adjudicating Form I-130

## Reviewing a Form I-130

In the adjudication process the ISO determines:

- **Is the petitioner eligible to file the petition?**  
(USC or LPR, and meets any age requirement)
- **Do the petitioner and beneficiary have a “qualifying” familial relationship for the classification being sought?**  
(marriage certificate, birth certificate, divorce decree)
- **Does the file contain evidence of the bona fides of the relationship?**  
(Are there inconsistencies or misrepresentations that cause fraud concerns?)
- **Are other required documents missing from the file?**  
(English translations of foreign documents, biographical forms, name changes)



# **USCIS Process for Adjudicating Form I-130**

## **Burden of Proof:**

**The adjudication of visa petitions is an administrative proceeding. In administrative proceedings, the petitioner bears the burden of proof to establish eligibility for the benefit sought.**

**Matter of Brantigan, 11 I&N Dec. 493 (BIA 1966)**

**In most cases, the standard of proof for a Form I-130 is preponderance of evidence.**





# **USCIS Process for Adjudicating Form I-130**

**Most stand-alone Form I-130 will be completed without the need of a personal interview; however, the facts of an individual case may indicate that a personal interview is appropriate.**

**USCIS Service Centers are not set up to conduct interviews. If an interview is necessary, the Form I-130 will be transferred to a Field Office.**

**When a Form I-130 has been filed concurrently with a Form I-485, the interview takes place at a USCIS Field Office.**



# **USCIS Process for Adjudicating Form I-130**

**What happens if the documentary evidence that the petitioner provided is not sufficient to prove the qualifying relationship?**

**USCIS will send the petitioner a Request for Evidence (RFE). The RFE will:**

- Tell the petitioner what is deficient**
- Request specific documents or information**
- Provide the petitioner with a set timeframe within which to respond to the RFE and the consequences of a failure to submit a timely response.**



# **USCIS Process for Adjudicating Form I-130**

**If the case contains adverse information, raises questions regarding eligibility, or appears to be deniable, USCIS will issue a Notice of Intent to Deny (NOID), which:**

- Describes the reason(s) for the intended denial and why the evidence in the record is not sufficient**
- Describes the evidence that is needed to overcome the potential reasons for denial**
- Provides the petitioner with the opportunity to provide additional documentation or explanation.**



# Decision

**If the Form I-130 is approved, USCIS:**

- **notifies the petitioner of the approval**
- **forwards the petition to the appropriate USCIS repository or forwards the petition to the DOS National Visa Center for overseas processing.**

**USCIS uses the Form I-797, Notice of Action, to notify the petitioner or any recognized representative of the approval and disposition of the Form I-130.**

**If the Form I-130 is denied, USCIS sends the petitioner and any recognized representative a denial letter which explains the reasons for the denial and outlines the petitioner's appeal rights.**



# Questions?



# **About this Presentation**

- **Author: USCIS OLA**
- **Date of last revision: May 11, 2015**
- **This presentation is current only as of the date of last revision.**
- **This presentation contains no sensitive Personally Identifiable Information (PII).**
- **Any references in documents or text, with the exception of case law, relate to fictitious individuals.**



# **Disclaimer**

**This training module is intended solely to provide information on current USCIS process. It is not intended to, does not, and may not be relied upon to create or confer any right(s) or benefit(s), substantive or procedural, enforceable at law by any individual or other party in benefit applications before USCIS, in removal proceedings, in litigation with the United States, or in any other form or manner. This training module does not have the force of law, or of a DHS directive.**

